

Mail Stop Interference
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Paper 1
Filed: December 1, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

EYAL RAZ
Junior Party
(U.S. Application 10/229,208),

v.

ARTHUR M. KRIEG AND JOEL N. KLINE
Senior Party
(U.S. Application 09/337,584).

Patent Interference No. 105,674 (MPT)
(Technology Center 1600)

DECLARATION - Bd.R. 203(b)¹

Part A. Declaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. • 41.x"; 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 not corresponding to the count(s) appear in Parts E and F of this
2 DECLARATION.

3 **Part B. Judge managing the interference**

4 Administrative Patent Judge Michael P. Tierney has been designated
5 to manage the interference. Bd. R. 104(a).

6 **Part C. Standing order**

7 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies
8 this DECLARATION. The STANDING ORDER applies to this
9 interference.

10 **Part D. Initial conference call**

11 A telephone conference call to discuss the interference is set for
12 2:00 p.m. on December 17, 2008 (the Board will initiate the call).

13 No later than four business days prior to the conference call, each
14 party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions
15 (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

16 A sample schedule for taking action during the motion phase appears
17 as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss
18 the schedule prior to the conference call and to agree on dates for taking
19 action. A typical motion period lasts approximately eight (8) months.
20 Counsel should be prepared to justify any request for a shorter or longer
21 period.

Part E: The parties

Junior Party

Named Inventors: EYAL RAZ, Del Mar, California
Involved Application: U.S. Application 10/229,208, filed
August 26, 2002.
Title: IMMUNIZATION-FREE METHODS FOR
TREATING ANTIGEN-STIMULATED
INFLAMMATION IN A MAMMALIAN
HOST AND SHIFTING THE HOST'S
ANTIGEN IMMUNE RESPONSIVENESS
TO A TH1 PHENOTYPE
Assignee: Regents of the University of California,
San Diego, CA

Senior Party

Named Inventors: ARTHUR M. KREIG, Iowa City, Iowa
JOEL N. KLINE, Iowa City, Iowa
Involved Application: 09/337,584, filed June 21, 1999
Title: IMMUNOSTIMULATORY NUCLEIC
ACID MOLECULES
Assignee: University of Iowa Research Foundation

The senior party is assigned exhibit numbers 1001-1999. The junior
party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1);

1 SO ¶ 154.2.1. The senior party is responsible for initiating settlement
2 discussions. SO ¶ 126.1.

3 **Part F. Count and claims of the parties**

4 **Count 1**

5 A method of treating asthma according to claim 58 of
6 U.S. Application 10,229,208 or claim 44 of U.S. Application 09/337,584.

7

8 The claims of the parties are:

9 Krieg, U.S. Application 09/337,584: 42-47, 49-53, 56-57, 82-85, 90,
10 92, 94, 96, 98, 100, 102-103

11 Raz, U.S. Application 10/229,208: 58

12

13 The claims of the parties which correspond to Count 1 are:

14 Krieg, U.S. Application 09/337,584: 42-45, 47, 49-53, 57, 90, 92,
15 94, 96, 98, 100, 102-103

16 Raz, U.S. Application 10/229,208: 58

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18 The claims of the parties which do not correspond to Count 1, and
19 therefore are not involved in the interference, are:

20 Krieg, U.S. Application 09/337,584: 46,56,82-85

21 Raz, U.S. Application 10/229,208: None

22

23 The parties are accorded the following benefit for Count 1:

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1 Krieg is accorded benefit of the filing dates of the following
2 applications:

- 3 i) U.S. Application 08/960,774, filed
4 October 30, 1997, now U.S. Patent 6,239,116,
5 issued May 29, 2001.
6 ii) U.S. Application 08/738,652, filed
7 **October 30, 1996**, now U.S. Patent 6,207,646,
8 issued March 27, 2001.

9
10 Raz is accorded benefit of the filing date of the following
11 applications:

- 12 i) U.S. Application 09/235,742, filed
13 January 21, 1999, now U.S. Patent 6,498,148,
14 issued December 24, 2002;
15 ii) U.S. Application 08/927,120, filed
16 **September 5, 1997**.

1 **Part G. Heading to be used on papers**

2 The following heading must be used on all papers filed in this
3 interference, see SO ¶ 106.1.1:
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12

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14 EYAL RAZ
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18 v.
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20 ARTHUR M. KRIEG AND JOEL N. KLINE
21 Senior Party
22 (U.S. Application 09/337,584).
23

24
25 Patent Interference No. 105,674 (MPT)
26 (Technology Center 1600)
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29 **Part H. Order form for requesting file copies**

30 When requesting copies of files, use of SO Form 4 will greatly
31 expedite processing of the request. Please attach a copy of Parts E and F of
32 this DECLARATION with a hand-drawn circle around the patents and
33 applications for which a copy of a file wrapper is requested.
34

35 Michael P. Tierney/
36 Administrative Patent Judge
37

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